

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 98-098

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 2. Form, Style and Placement in Administrative Code

a. All of the treatment clauses should be rewritten to follow the format in s. 1.04 (2), Manual. For example, the treatment clause for SECTION 1 should state: “SECTION 1. Ins 3.27 (5) (a) 1. is amended to read:”.

b. In most SECTIONS of the rule, “Ins” should replace “INS.”

c. The definition of “creditable coverage” in SECTION 2 of the rule is not in proper format. Following “(aks),” “1.” should be inserted and “1.” should be deleted preceding “with respect.” The introductory clause should read: ““Creditable coverage” means, with respect to an individual, coverage of the individual provided under any of the following:”. The three subdivisions beginning with “does not include” or similar words should be rewritten to provide that ““Creditable coverage” does not include . . . .” In addition, throughout SECTION 2 and elsewhere in the rule, semicolons should be replaced by periods. [See s. 1.03 (intro.), Manual.]

d. Throughout the rule, the capitalization rules specified in s. 1.01 (4), Manual, are not followed. For example, terms such as “secretary,” “medicare,” “medicare select,” “medicare+choice,” “health service” and “state” should not be capitalized.

e. Terms such as “thereof” in s. Ins 3.39 (3) (aks) 3. b. and “thereafter” in s. Ins 3.39 (5) (m) 4. should not be used. [See s. 1.01 (9) (c), Manual.]

f. In s. Ins 3.39 (3) (aks) 1. e., reference is made to “(CHAMPUS).” If an acronym is used for the name of a program, it must be defined and used consistently. Also, in this provision

and throughout the rule, parenthetical material should not be used. [See s. 1.01 (6) and (8), Manual.]

- g. In s. Ins 3.39 (3) (aks) 2. a., “for” should be replaced with “by.”
- h. Quotation marks are omitted for the definitions of “employee welfare benefit plan,” “medicare+choice plan” and “secretary” in s. Ins 3.39 (3) (akv), (cm) and (iL).
- i. In SECTION 3, the title to s. Ins 3.39 (4m) should not be included since “OPEN ENROLLMENT” is not the title to par. (a). [See s. 1.05 (3) (d), Manual.] Also, subds. 1. to 4. should not be shown since they are not amended; in the treatment clause, “(intro.)” should be inserted after “(a).”
- j. In s. Ins 3.39 (4m) (c), “shall” should be replaced by “may.” [See s. 1.01 (2), Manual.] This same problem occurs in s. Ins 3.39 (25) (d) and (34) (b).
- k. In s. Ins 3.39 (9) (b) and (34), the titles are not in proper format.
- l. In SECTIONS 7 and 8, “3.39” should follow “Ins” in the treatment clause.
- m. In s. Ins 3.39 (34), pars. (1) to (4) should be renumbered as pars. (a) to (d). [See s. 1.03 (intro.) and (4), Manual.] The subdivisions should be renumbered as required by s. 1.03 (5), Manual. Also see s. 1.03 (6), Manual, regarding further divisions.
- n. In s. Ins 3.39 (34) (b) (as renumbered to comply with s. 1.05 (4), Manual), “a.” should be deleted after “1.” halfway down page 7 and “subd.” should replace “subdiv.” near the bottom of that page.
- o. In s. Ins 3.39 (34) (d) (as renumbered to comply with s. 1.05 (4), Manual), “At the time of an event described in sub. (2), because of which” should be replaced with “When.” Also, “The” should replace “Such.”
- p. Near the top of pages 12 and 13, “You Pay” should replace “you Pay.”
- q. On page 15, sub. (13) lacks a verb.
- r. SECTION 12 repeals s. Ins 3.39, Appendix 8 (d), (e) and (f). Does the agency wish to renumber (g) to become (d)?

That SECTION also repeals s. Ins 3.46 (9) (b). This should be done in a separate SECTION.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. The analysis of the rule states that “Wisconsin mandated coverages for TMJ” are added to the basic Medicare supplement policy. However, the statute that sets forth this mandated coverage exempts Medicare supplement policies. [See s. 632.895 (11) (e) 2., Stats., as created by 1997 Wisconsin Act 237.] The dental mandate that is added by the text of the rule is

that set forth in s. 632.895 (12), Stats., which relates to coverage of certain hospital and ambulatory surgery center charges and anesthetics for dental care. The analysis should be corrected to reflect this.

b. Citations to federal statutes should be by use of the U.S. Code reference. If an agency wishes to include a reference to a public law or a federal act, this should be done in a note. Thus, for example, in s. Ins 3.39 (3) (akv), “29 U.S.C. Section 1002 (Employee Retirement Income Security Act)” should be replaced by “29 U.S.C. s. 1002.” [See s. 1.07 (3) (a), Manual.]

c. Section Ins 3.39 (3) (cm) states, in part, “[refer to definition of Medicare+Choice plan in Section 1859 found in Title IV, Subtitle A, Chapter I of P.L. 105-33].” This reference should be replaced by a proper reference to the definition contained in the U.S. Code.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. The analysis states, in the fourth paragraph, “Some insurers have refused to accept applications for people eligible prior to becoming eligible making them apply after they are eligible causing undo (sic) hardship on them.” This is unclear and should be rewritten. The paragraph on page 2, beginning “Require guaranteed issue . . .” should be rewritten as a complete sentence. Also, in the third paragraph of the analysis, “credible” should replace “credible.”

b. Section Ins 3.39 (5) (k) 4. and (m) 4. requires annual adjustments in the amount of the deductible to reflect inflation. It would be helpful if a note were included indicating where a person may find out the most current amount.